

**State Water Resources Control Board  
March 17, 2009 Board Meeting  
Item 20 - Executive Director's Report**

**OFFICE OF ENFORCEMENT**

**Mandatory Minimum Penalty Enforcement Backlog Update:** In order to address the outstanding violations subject to mandatory minimum penalties, the Office of Enforcement developed an expedited payment process which allows for the resolution of an MMP violation without the issuance of a formal administrative civil liability (ACL) complaint. Some regions prefer using an ACL complaint and that option is available to them to address their backlogged violations.

As of March 2, 2009, the backlog of MMP violations without enforcement actions has been substantially reduced. Several Regional Boards have addressed all outstanding violations in their jurisdiction, and the remaining Regional Boards are nearly finished. As a result of the MMP initiative, the State Board and Regional Boards have addressed approximately 12,889 violations from 435 facilities statewide. The Initiative has also resulted in a more accurate and complete recording of violations. The enforcement activities have consisted of 123 administrative civil liability complaints and 312 expedited payment letters.

Based on current information, there are 21 remaining facilities with approximately 210 violations which will be addressed as part of the Initiative.

When the Initiative began, CIWQS reported approximately 477 facilities with 7,203 violations (through December 31, 2007) without enforcement.

**Enforcement Data Improvement Project:** The State Water Board's Office of Enforcement is leading a Water Board-wide effort to address data issues that affect the Water Board's entry, retrieval, and use of data related to water quality violations and enforcement actions to protect water quality. Strategic and tactical issues as well as basic data entry and business rule clarity will be targeted. The goal is to eliminate all structural data issues that adversely impact the Water Board's ability to accurately and clearly report on its enforcement activities for both management purposes and to provide public information regarding our regulatory programs.

This project consists of an initial, comprehensive problem definition and the development and implementation of an action plan that addresses each and every issue identified within six months of inception.

The project commenced with an Enforcement Data Summit, a face-to-face meeting in Sacramento on February 18, 2009, involving an enforcement expert and data information expert from each Regional Water Board.

As an indication of the priority which has been given to this project, Directors of the Office of Enforcement, the Office of Research Planning and Performance, and the Office of Information Management and Analysis, and the Deputy Director of the Division of Water Quality are all participating.

## DIVISION OF WATER QUALITY

### **Antidegradation Policy Implementation Triennial Review (Resolution No. 68-16):**

On November 17, 2008, a workshop was held to take comments on the triennial review of the State's Anti-degradation Policy and its implementation guidance contained in the Administrative Procedures Update 90-004 and Office of Chief Counsel guidance memo's for implementation of the Antidegradation Policy in ground water. Comments were due by 12:00 noon on December 17, 2008. Staff is reviewing the comments.

**ASBS Stormwater and Nonpoint Source Exception:** Staff is working to complete the initial study and draft mitigated negative declaration that will support a general exception to the ocean plan for discharges of storm water and non-point source discharges to Areas of Special Biological Significance (ASBS). Stakeholder meetings were conducted on September 26, 2008, October 24, 2008, and December 4, 2008. Staff was delayed by a Public Records Act request but is working toward release of the required CEQA document in March 2009, and plans a public hearing in May 2009. In the meantime, regional monitoring efforts have begun at Southern California ASBS, and additional planning meetings will be held with Central and Northern California stakeholders. Also, Mussel Watch sample collection has begun with monthly collection through the month of April.

### **Groundwater Ambient Monitoring and Assessment (GAMA) Program:**

**GAMA's Priority Basin Project** has been on hold since December, 2008, as a result of the Governor's Executive Order to stop work on bond-funded contracts. Many of the 40 staff at the US Geological Survey and Lawrence Livermore National Laboratory working exclusively on GAMA have been laid off or redirected to other programs. A request for exemption for GAMA from the stop-work order has been sent to the Department of Finance.

**GAMA's Domestic Well Project** for 2008-09 is complete. A total of 137 private domestic wells were sampled in San Diego County. The preliminary results show 24 percent of the wells have water that is above the nitrate MCL; 30 percent positive with total coliform bacteria; 47 percent above the uranium MCL and 53 percent above the gross alpha MCL.

**Landscape Irrigation General Permit:** The State Water Board is preparing to notice a draft of the Statewide General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water (General Permit) and the supporting environmental document by the end of March 2009. Written comments on the documents will be solicited with the comment period specified in the notice. The adoption of the General Order and the environmental document remains on schedule to adopt the General Order by July 31, 2009 as mandated by AB 1481. For more information, please see the program website:  
[http://www.waterboards.ca.gov/water\\_issues/programs/water\\_recycling\\_policy/landscape\\_irrigation\\_general\\_permit.shtml](http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/landscape_irrigation_general_permit.shtml)

**Once Through Cooling – CWA Section 316(b):** Staff has assembled and met with an inter-agency work group, which meets bi-monthly to address cross-cutting issues and provide information needed for policy implementation. A meeting of the inter-agency work group was held on February 10, 2009. The next meeting is being scheduled for late March or April 2009. A draft Substitute Environmental Document (SED) has been prepared by the state's contractor and is under internal review.

**Onsite Wastewater Regulations (Septic Tank Systems):** On February 23, 2009, the comment period closed for the draft regulations on septic systems. During the 105-day comment period the Water Board received more than 2,500 email comments, hundreds of comment letters, and many hours of recorded oral comments at 12 public workshops. Staff is undertaking the lengthy process of documenting and organizing all comments and considering next steps. Proposed revisions to the draft regulations will be prepared based on the comments received and released for further comment in the future.

**Recycled Water Policy:** The State Water Board adopted the Recycled Water Policy on February 3, 2009. The next step is to submit the record to the Office of Administrative Law (OAL). The Recycled Water Policy will become effective after OAL approves it.

**Sediment Quality Objectives (SQOs) Phase I:** The Office of Administrative Law approved the Phase I SQOs on January 5, 2009. The Phase I SQOs were subsequently submitted to U.S. EPA for approval.

**Stormwater Construction General Permit (CGP):** Staff has reviewed the comments submitted on the draft CGP (all received by deadline on June 11, 2008) and, based on this input, made revisions to the draft CGP that are significant enough to warrant one more round of public comment. Staff plans to release a new draft (without preparing individual responses to comments received on the prior version) and a notice of hearing and comment period on April 10, 2009. The deadline to submit all written comments will be May 22, 2009. The changes in this version include a slightly different risk structure (including the removal of all numeric measures from the lowest level), adjustment of the numeric measures (numeric action levels and numeric effluent limitations) and the addition of linear requirements to the draft CGP (currently linear requirements are split between two permits). Staff plans to schedule a public hearing on the draft CGP in May 2009 and to bring the permit to the Board for consideration of adoption in July 2009.

**Suction Dredging Update:** As part of the revision of the Department of Fish and Game's (DFG's) suction dredge regulations, DFG will contract for an Environmental Impact Report (EIR) using \$1.0 million allocated by the Legislature for this purpose. On January 6, 2009, the State Water Board approved \$500,000 from the Cleanup and Abatement Account to augment DFG's EIR allocation. This augmentation is intended to ensure that the EIR fully addresses water quality concerns related to suction dredging. Staff is working with DFG to prepare the interagency agreement that identifies the work to be completed with the \$500,000 augmentation. In addition, State Water Board staff collaborated with DFG staff to prepare the Request for Qualifications (RFQ) for the EIR contractor. On January 21, 2009, DFG released the RFQ, and the deadline for submittal of qualifications is February 19, 2009. DFG has invited State Water Board staff to collaborate on the evaluation of contractor qualifications. DFG's goal is to award the contract by March 27, 2009. As a related update, on January 26, 2009, DFG released a letter denying the petition to DFG that was discussed at the State Water Board's meeting on January 6, 2009.

**Vessel General Permit:** On December 17, 2008, the Executive Director issued a Clean Water Act Section 401 Certification for U.S. EPA's National Vessel General Permit (VGP). Subsequently, U.S. EPA on December 1, 2008 issued the final VGP, including California's certification. The court stayed its effect until February 6, 2009. The final VGP contained several changes from the initial draft used to prepare the certification, and the Executive Director issued a modified section 401 Certification on February 4, 2009. The VGP along with the conditions included in California's certification applies to all vessels over seventy-nine feet in length operating in state waters.

**Storm Water Advisory Task Force (SWATF) Meeting:** The AB 739 SWATF held its sixth meeting on February 25, 2009. Meeting topics included: (1) updates on the Department of Water Resources funding programs and the Water Board's Proposition 84 Storm Water Grant program, and (2) work on the Effectiveness Assessment Document for evaluating and measuring the effectiveness of municipal storm water management programs. The next SWATF meeting is scheduled for May 18, 2009.

**Wetland and Riparian Area Protection Policy (WRAPP):** State and Regional Water Board staff continues to make progress on the Wetland and Riparian Area Protection Policy. The management steering committee met on January 21, 2009 to discuss two policy issues: Phase 1 Policy implementation through General Waste Discharge Requirements (WDRs), and the current Clean Water Act exemptions for agriculture, timber, and range in regards to the discharge of dredged or fill material to federal waters and wetlands. The steering committee recommended against State Water Board staff developing WDRs for Phase 1 implementation because it would extend the timelines of all phases. The steering committee also recommended that the Clean Water Act exemptions be included in the Policy for State waters and wetlands, but implement the exemptions subject to the requirements of Regional Water Board Basin Plans.

State Water Board staff will be submitting a new request for U.S. EPA Wetland Development Program grant funding for additional Phase 1 work not foreseen in the original grant request. The grant submittal deadline is March 30.

**Sanitary Sewer Overflow (SSO) Incident Maps:** Staff has completed initial testing and is preparing to release a new incident map that depicts all statewide sanitary sewer overflows (SSO) and private lateral sewage discharge incidents that have been reported into CIWQS by program enrollees covered under the SSO General Order (No. 2006-0003-DWQ). This mapping tool is the first of its kind developed exclusively for querying CIWQS certified spill data in a map format and was developed in-house by Water Board staff leveraging existing technological resources. It furthers our efforts in implementing CWC 13193 by making reports available to the public, using GIS maps where possible, and supports the Water Board's Strategic Plan goal of communicating public information regarding the State's waters in an easily understood form. Since the summer of 2008, staff has solicited input and comments from Regional Board staff and industry via the SSO External User group. The mapping tool incorporates numerous comments, suggestions, and enhancements including the capability to search by date, spill size and individual agencies enrolled in the program.

The public release date for the maps will be announced once the final testing is completed.

### **Statewide Policies/Significant General Permits:**

**Appendix 1** provides the current status of pending Statewide Policies and Significant General Permits.

### **Irrigated Lands Regulatory Program Update Report:**

The March 2009 report is attached as **Appendix 2**.

## DIVISION OF WATER RIGHTS

### Russian River Water Right Issues

- **Instream Flow Policy (AB 2121):** Division of Water Rights staff is working with the Division of Administrative Services to extend and augment the existing contract with Stetson Engineers both as to time and money to complete work associated with the pending instream flow policy and the supporting environmental documentation. Division staff received a draft negotiated policy proposal from Trout Unlimited on January 27, 2009. The contract extension will allow the Board's consultants to assist the Division with review and analysis of the draft policy proposal. The proposal was negotiated by Trout Unlimited and Wagner & Bonsignore, Consulting Civil Engineers, Inc., which represents about one-third of the parties with pending water right applications in the geographic area for which the Board is mandated to adopt a policy. The draft amended contract must be approved by the Department of General Services.
- **Frost Protection Task Force:** The Division of Water Rights has been attending monthly meetings in Santa Rosa related to a multi-agency frost protection task force assembled last summer by the Santa Rosa Office of the National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries). The task force was formed to address the adverse effects that water diversion activities for agricultural frost protection can have on endangered aquatic species. The task force was formed after the NOAA Fisheries Office of Law Enforcement received notification of two episodes of fish stranding mortality which provided evidence of serious fish kills in the Russian River: one near Hopland in Mendocino County, affecting steelhead fry, and one on Felta Creek, a Russian River tributary in Sonoma County, affecting coho fry. It was estimated that hundreds, if not thousands, of salmonids were killed as the result of water diversions associated with one frost event. NOAA Fisheries has identified similar impacts in Maacama Creek, another Russian River tributary.

In addition to NOAA Fisheries and the State Water Board, participating agencies and organizations include: North Coast Regional Water Board, Department of Fish and Game, State Coastal Conservancy, Mendocino County Farm Bureau, Trout Unlimited, Center for Ecosystem Management and Restoration, Fish Friendly Farming; Sotoyome Resource Conservation District, Mendocino County Russian River Flood Control and Water Conservation Improvement District, Sonoma County Water Agency, as well as individual growers. The task force has been investigating actions that can be taken to prevent or reduce the impact of agricultural frost protection actions on salmonids in the Russian River. The Mendocino County Farm Bureau has sponsored educational outreach events for their members on frost protection alternatives as well as on water conservation related to irrigation in cooperation with UC Davis and the Sonoma County Water Agency.

The state and federal regulatory agencies within the frost protection task force are in the process of forming a group to cooperatively respond to violations within their respective areas of responsibility. On February 27th, the Deputy Director for Water Rights received a request from the Santa Rosa Office of NOAA Fisheries requesting that the State Water Board take immediate action to protect salmonids, e.g., by adopting emergency regulations. The frost season in the Russian River area generally begins around March 1st of each year. In 1977, the State Water Board adopted emergency regulations stating that the diversion of significant amounts of water for frost protection on the Napa River is unreasonable unless controlled by a watermaster administering a court- or Board- approved distribution program.

Those emergency regulations were later adopted as part of the California Code of Regulations.

- **Sonoma County Water Agency permits:** The Division of Water Rights has been informed that Sonoma County Water Agency (SCWA) may submit a petition requesting that beginning in June 2009 the State Water Board temporarily change flow requirements it imposed in SCWA 's permits. The State Water Board has received similar requests from SCWA in the past, and has conditionally approved the requests. The most recent request was approved in 2007. The approval required, in part, that SCWA achieve 15 percent conservation within its service area. SCWA met the requirement, achieving 19 percent conservation. The current request stems in part from changes in operation resulting from two actions: (1) changes in operation of Pacific Gas and Electric Company's Potter Valley Hydroelectric Project that result in less water being imported into the Russian River Watershed above Lake Mendocino, and (2) a biological opinion prepared by NOAA Fisheries for Russian River water supply and flood control actions. The State Water Board prescribed the streamflow requirements in its Decision 1610. The decision contains a clause that allows the State Water Board to reconsider flows under certain events which have been triggered. The Division expects that the State Water Board will be asked to review the flow requirements in the long term, following the preparation of an environmental document.
- **Sonoma County Water Agency Water Supply, Transmission, and Reliability Project:** Division staff are reviewing the EIR submitted by Sonoma County Water Agency (SCWA), lead agency for the Water Supply, Transmission, and Reliability Project. The project is intended to provide a safe, economical water supply to meet the defined current and future water supply needs of SCWA's primary water contractors (including the cities of Santa Rosa, Sonoma, Rohnert Park, Cotati, and Petaluma, the Town of Windsor, Valley of the Moon Water District, and North Marin Water District) and other customers in southern Sonoma County and portions of Marin County.

### **Delta Island Water Right Compliance Investigation**

Consistent with the State Water Board's Bay Delta Strategic Plan, on February 18, 2009, the Enforcement Section of the Division of Water Rights mailed approximately 375 letters to landowners on Union and Roberts Islands located in the Sacramento-San Joaquin Delta. The letters require landowners to identify their current basis of right to divert water from Delta channels and submit necessary Statements of Water Diversion and Use of Water, if applicable. The letters also informed them that Division staff will be conducting field investigations later this year to confirm the status of water use, and determine overall compliance with state law and the terms and conditions of water right permits and licenses. As of March 1, 2009, the Division received 32 responses to the letters. In April, after responses are received, the Division will categorize diversions based on water right type and prioritize projects for field inspection, and may identify apparent illegal diversions that are subject to potential enforcement.

### **Licensing of the Solano Water Project of U.S. Bureau of Reclamation**

The Solano Water Project (located in Solano and Yolo Counties) utilizes three water right permits held by the U.S. Bureau of Reclamation for water flowing through and stored in Lake Berryessa to serve the Cities of Fairfield, Suisun City, Vacaville and Vallejo, the Maine Prairie Water District, the Solano Irrigation District, the University of California at Davis and the California Department of Corrections. Total combined diversion under these rights is limited to 1.6 million acre-feet per year. The Division is preparing licenses for two of the permits and a time extension order for the third permit. All of the rights will include enhanced flows dedicated to the protection of fish, pursuant to Water Code section 1707.

## **Spring Gap-Stanislaus Hydroelectric Project**

On September 15, 2008, the Executive Director issued a water quality certification for the Spring Gap-Stanislaus Hydroelectric Project (Project). The Project is owned and operated by Pacific Gas and Electric Company (PG&E). On October 15, PG&E and the Tuolumne Utilities District (TUD) each filed a petition for reconsideration of the certification and a request for abeyance. The State Water Board agreed to hold the petition in abeyance until January 12. The State Water Board and TUD also entered into a tolling agreement to stay the statute of limitations under the California Environmental Quality Act until such time as all administrative remedies have been exhausted. State Water Board staff, TUD staff, and it's contractors have met several times to discuss the operations model developed for the Project. Agreement was reached that the model is functioning properly and useful for evaluating alternatives. Meetings were held on January 23 and February 25 between State Water Board, TUD, and PG&E staff and attorneys to discuss water rights. On February 19, TUD requested that the petition be held in abeyance through April 13 to facilitate these discussions. Once these discussions are finalized, State Water Board staff will prepare an order for the State Water Board's consideration.

## **Strategic Workplan for the Bay-Delta**

As part of the Strategic Workplan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta) the State Water Board will comprehensively review and update, if needed, the 2006 Bay-Delta Plan, as well as water rights and other measures implementing that plan. There are three upcoming events related to this review:

- **Southern Delta salinity objectives update meeting on March 18, 2009:** Division staff are planning a meeting to update stakeholders with respect to ongoing efforts for the re-evaluation of the Southern Delta salinity objectives.
- **CEQA scoping meeting on March 30, 2009:** On February 13, 2009, the State Water Board released a notice of preparation and scoping meeting for the update and implementation of the 2006 Bay-Delta Plan. The purpose of the CEQA scoping meeting is to receive information regarding the scope and content of the environmental information to be included in the environmental documentation related to Southern Delta salinity and San Joaquin River flow objectives and the program of implementation.
- **Water quality control planning workshop on April 22, 2009 (with additional days as needed):** The State Water Board will begin a series of water quality control planning workshops to receive information related to Southern Delta salinity and San Joaquin River flow objectives. Specifically, Division staff has requested information concerning the range of alternatives for the objectives and the program of implementation the Board should consider, including where and when these objectives should apply. Staff also requested information related to seven additional topics and any other topics that stakeholders believe the State Water Board should consider.

Notices for these activities are available at: <http://www.waterrights.ca.gov/baydelta/>

## **Drought Activities Update**

In order to facilitate the availability of water to drought-stricken areas in California, the Division of Water Rights has streamlined procedures to expedite processing of temporary water transfers and temporary urgency change petitions to amend water right conditions. Recent notable activities include:

- Petitions were received on December 31, 2008 from Delta Wetlands Properties on behalf of Reclamation District No. 756 and Delta Farms Reclamation District No. 2026 for temporary urgency change and temporary change to authorize the transfer of up to 17,941 acre-feet of water to the Metropolitan Water District (MWD) made available through fallowing of about 4,198 acres of land on Webb Tract and about 5,426 acres of land on Bouldin Island. [Order WR 2009-0003-DWR](#) was issued on February 5, 2009. The petitions requested a total of 17,941 af of water to be transferred between May 1, 2009 and September 30, 2009, but orders approving petitions for temporary urgency change may be effective for a maximum of 180 days. Order WR 2009-0003-DWR is effective through July 31, 2009. The amount of water scheduled for transfer through July 31, 2009 is 10,333 af. Accordingly, Order WR 2009-0003-DWR only approved 10,333 af for transfer. The petitioner must receive additional State Water Board authorization to transfer the remaining 7,608 af. On February 26, 2009 staff issued public notice for the transfer of 17,941 af of water from Delta Wetlands Properties to the Metropolitan Water District, with instructions to the petitioner to arrange for publishing the notice by February 28, 2009. Comments are due by March 30, 2009. Comments on this notice supersede comments on both the [Order WR 2009-0003-DWR](#) and the notice for temporary urgency change.
- A petition was filed on February 10, 2009 by the Department of Water Resources and the U.S. Bureau of Reclamation for temporary urgency change to modify permit terms related to Delta outflow objectives and San Joaquin River flow objectives in February 2009. The State Water Board held a public hearing on February 17 and 18, 2009 to consider taking an emergency drought-related action on this petition. The record did not support a finding that DWR and Reclamation had an urgent need for the changes they requested. On February 24, 2009, the State Water Board issued [Order WR 2009-0013-EXEC](#), denying the temporary urgency change regarding temporary relaxation of the February Delta outflow objectives in response to drought conditions.
- On February 17, 2009, the State Water Board issued Order WR 2009-00012 denying petitions for reconsideration of Order WR 2008-0029-EXEC from South Delta Water Agency and Lafayette Ranch, Inc., and the California Sportfishing Protection Alliance. Order WR 2008-0029-EXEC approved a petition to temporarily amend the conditions of the water right permits for the United States Bureau of Reclamation's Central Valley Project (CVP) and the water right permits for the Department of Water Resources' State Water Project (SWP). The approval authorized the CVP and the SWP to use one another's pumping plants in the Sacramento-San Joaquin Delta Estuary, often described as joint points of diversion operations, even if water quality objectives for salinity in the southern Delta were not being met.
- On March 4, 2009, the State Water Board received a petition for temporary urgency change from the United States Bureau of Reclamation (Reclamation) to amend conditions in its permits per Water Right Decision 1641 (D-1641) relating to river flows in the San Joaquin River at the Airport Way Bridge near Vernalis. Reclamation requested that for March 2009, the minimum monthly average flow rate shall be 710 cfs or 1,140 cfs, based upon a dry year

water classification, rather than 1,420 or 2,280 cfs, based upon a critically dry year water classification. The higher flow objective in each pair is applicable when the two parts per thousand isohaline is required to be at or west of Chipps Island per D-1641. Precipitation occurring at the time this petition was submitted had the potential to change the classification of the water year from “critically dry” to “dry”. The petition stated that the water cost in the absence of relief requested in this petition would be a release of 43,000 acre-feet of water from New Melones Reservoir in the month of March. On March 10, 2009, the Department of Water Resources published its forecast for a critically dry water year, and on March 11, 2009, Reclamation withdrew its petition. Also on March 11, 2009, Board Chair Charles Hoppin sent a letter to Reclamation acknowledging the withdrawn petition and providing information on State Water Board expectations for any future petitions.

### **State of Emergency Drought Proclamation by the Governor**

To combat California's third consecutive year of drought, on February 27, 2009, Governor Arnold Schwarzenegger proclaimed a state of emergency and ordered immediate action to manage the crisis. In the proclamation, the Governor uses his authority to direct all state government agencies to utilize their resources, implement a state emergency plan and provide assistance for people, communities and businesses impacted by the drought. There are nine directives in the Order that directly affect the State Water Board:

- Department of Water Resources (DWR) shall, in partnership with other appropriate agencies, launch a statewide water conservation campaign calling for all Californians to immediately decrease their water use.
- DWR shall implement the relevant mitigation measures identified in the Environmental Water Account Environmental Impact Report, Environmental Impact Statement, Supplement, and Addendums for the water transfers made through the 2009 Drought Water Bank. The Air Resources Board shall, in cooperation with DWR and other agencies, expedite permitting and development of mitigation measures related to air quality impacts that may result from groundwater substitution transfers.
- DWR and the State Water Board shall expedite the processing of water transfers and related efforts by water users and suppliers that cannot participate in the 2009 Drought Water Bank, provided the water users and suppliers can demonstrate that the transfer will not injure other legal users of water or cause unreasonable effects on fish and wildlife.
- The State Water Board shall expedite the processing and consideration of the request by DWR for approval of the consolidation of the places of use and points of diversion for the State Water Project and federal Central Valley Project to allow flexibility among the projects and to facilitate water transfers and exchanges.
- DWR shall implement short-term efforts to protect water quality or water supply, such as the installation of temporary barriers in the Delta or temporary water supply connections.
- The State Water Board shall expedite the processing and consideration of requests by DWR to address water quality standards in the Delta to help preserve cold water pools in upstream reservoirs for salmon preservation and water supply.
- To the extent allowed by applicable law, state agencies shall prioritize and streamline permitting and regulatory compliance actions for desalination, water conservation and recycling projects that provide drought relief.

- The CEQA exemptions relating to certain emergency projects, including actions to prevent or mitigate for an emergency and to address property or facilities damaged or destroyed as a result of disaster, shall apply to all actions or efforts consistent with this Proclamation that are taken to mitigate or respond to this emergency. In addition, the portion of the Water Code that requires State offices, departments, and boards to comply with water quality control plans is suspended to allow expedited responses to this emergency that are consistent with this Proclamation. The Secretary for the California Environmental Protection Agency and the Secretary for the California Natural Resources Agency shall determine which efforts fall within these exemptions and suspension, ensuring that these exemptions and suspension serve the purposes of this Proclamation while protecting the public and the environment. The Secretaries shall maintain on their websites a list of the actions taken in reliance on these exemptions and suspension.
- By March 30, 2009, DWR shall provide the Governor with an updated report on the state's drought conditions and water availability. If the emergency conditions have not been sufficiently mitigated, the Governor will consider issuing additional orders, which may include orders necessary to prevent, remedy or mitigate the effects of extreme drought conditions, such as the following:
  - institution of mandatory water rationing and mandatory reductions in water use,
  - reoperation of major reservoirs in the state to minimize drought impacts, and
  - additional regulatory relief or permit streamlining as allowed under the Emergency Services Act.

### **Notice of Surface Water Shortage for 2009**

After two years of drought, California's water reserves are extremely low in many parts of the state. Because the 2008-2009 water year is also threatening to be a very dry year, the Division of Water Rights sent notices on February 26, 2009 to 7334 water right holders. The notices informed water right holders in the Sacramento River, San Joaquin River, Russian River, Central Coast and Tulare Lake watersheds that it is likely that there will not be sufficient water available for irrigation needs during the 2009 growing season, and water rights for domestic and municipal use may need to be reduced to an amount of water necessary for health and safety purposes. By means of this notice, the State Water Board strongly encouraged immediate implementation of water conservation guidelines for irrigation that were provided with the notice, and provided a website link to conservation guidelines for urban water users. If dry conditions continue, the Division intends to send water diversion curtailment notices to many water right holders in these critical watersheds.

### **Water Right Self-Monitoring Reports**

On March 4th and 5th, the Division mailed out water right self-monitoring reports (Annual Progress Reports by Permittee and Reports of Licensee) to 1,553 permit holders for 2008 diversions, and to 3,300 license holders for diversions made in 2006 through 2008. All permit and license holders are required to complete these reports and identify their diversion amounts and any amounts saved through conservation, conjunctive use or use of reclaimed water, if applicable. The Division requires that the reports be completed and returned by June 1, 2009.

## **Legislative Hearings**

On March 10th, the State Water Board testified at Legislative hearings on two issues. Chair Hoppin, Chief Deputy Director Howard, and Assistant Chief Counsel Sawyer testified before the Senate Committee on Natural Resources and Water at a hearing on Water Rights laws. Deputy Director for Water Rights Whitney testified before the Assembly Committee on Water, Parks, and Wildlife at a hearing on California's Salmon Crisis.

## **EWRIMS**

The US Geologic Survey recently released a video promoting its national hydrography dataset (NHD). The video features eWRIMS, the State Water Board's water rights database, along with geospatial applications developed by two other governmental agencies in the United States that use data from the NHD.

## **Delegation Authority**

The State Water Board has delegated specific actions relating to the general operation of the water rights program to the Deputy Director for Water Rights. (See Resolution 2007-0057) Each month, mid-month, the Division of Water Rights posts on its webpage a report on the actions it has completed in the previous month. The table below provides a summary of the activities of the Division from July 2008 through January 2009. Information on activities completed in February will be posted mid-March. Permitting, Licensing, Petition, Transfer, Monitoring and Reporting, and proposed Enforcement activities are delegated or conditionally delegated to the Deputy Director for Water Rights. Water Quality Certification activities are delegated to the Executive Director. In general, a conditionally delegated activity is delegated unless the affected water right holder is entitled to a hearing on the action and a hearing is requested.

	FY 2008-2009	January 2009
<b>Permitting</b>		
Applications Rejected	11	1
Applications Cancelled	17	1
Registrations Issued	19	0
Registrations Renewed	80	34
New Statements Processed	79	14
New Groundwater Recordations Processed	49	0
Permits Issued	10	0
Temporary Urgency Permits Issued	2	2
<b>Licensing</b>		
Licenses issued	28	0
<b>Petitions</b>		
Time extension Orders Issued	2	1
Change Orders Issued	10	0
<b>Transfers Approved<sup>1</sup></b>		
Orders Issued on Temporary Urgency Change Petitions	4	0
Orders Issued on Temporary Change for Transfer Petitions	5	0
Orders Issued on Long Term Transfer Petitions	0	0
<b>Monitoring and Reporting</b>		
Annual Reports of Permittee and Licensee Processed	1499	27
Supplemental Statement of Diversion & Use Processed	153	0
Annual Groundwater Recordation Processed	703	0
Ownership Changes Processed	768	36
<b>Enforcement</b>		
Permit and License Revocations Issued	75	14
Complaint Actions Closed	24	2
Cease and Desist Orders Issued	4	0
Administrative Civil Liability Complaints Issued	4	0
Administrative Civil Liability Orders Paid	1	0
<b>Water Quality Certifications</b>		
Certifications on FERC projects	4	0
Application Denials on FERC projects	0	0
Certifications on Non-FERC projects	4	1
Application Denials on Non-FERC projects	0	0
<b>Adjudicatory</b>		
Division Decisions Issued	0	0
Administrative Records Completed	0	0

<sup>1</sup> Transfers may also be accomplished under change petitions filed pursuant to Water Code section 1700 *et seq.*

## OFFICE OF RESEARCH, PLANNING AND PERFORMANCE

### Water Board Training Academy

Some of the upcoming Training Academy course offerings include:

<p><b>Currently Scheduled*</b></p> <p><i>March and April</i></p>	<p><b>Water Quality Chemistry Field Sampling and Laboratory Analysis -</b> Participants will learn basic field and laboratory procedures for wastewater and surface water sampling and analyses and gain an understanding of the field and laboratory quality assurance. This course will review the appropriate field and analytical techniques to produce accurate laboratory data.</p>
<p><i>April &amp; May</i></p>	<p><b>Aligning your Basin Plan with Water Board Priorities -</b> Basin Plans are the key regulatory documents for water quality in the state and are an essential tool for supporting the Water Board's most important work. Currently, Water Board staff are working to align the Basin Plans with Water Board priorities and goals. In addition, Regional Board staff routinely update and amend the Basin Plan with new TMDLs, changes in Beneficial Uses, and other regulatory items.</p>
<p><i>April</i></p>	<p><b>Acid Generation Prediction Tests: An Overview -</b> This half-day class is intended to introduce state and regional water board staff to general causes of acid generation in earthen materials, the types of earthen materials that generate acid, and analytical tests used to determine acid generation potential of earthen materials. Class discussions will address data such test produce, assumptions, and data interpretation.</p> <p><b>Effects of Water Diversion on the Ecology and Geomorphology of Small Streams -</b> The goal of the course is to provide Water Rights staff with the information and tools needed to evaluate the effects of water diversions on instream resources. The instructors will provide an overview of the fundamental concepts of fluvial geomorphology and the biology/habitat requirements of coastal salmonids and amphibians in small streams. Principles developed in the classroom will be reinforced through a series off hands-on field exercises. This course is primarily offered to Water Rights staff.</p> <p><b>Water Professionals Guide to Land Use Planning -</b> Local land use decisions have a direct impact on both water supply and water quality. This class will provide the basic legal, planning and process context for land use planning in California at regional and local levels.</p> <p><b>Advanced Wastewater Engineering –</b> This is the third offering of this very popular class. Advanced Wastewater Engineering focuses on the most common compliance problems with wastewater treatment facilities and how those problems may be resolved by source control, modified wastewater facilities operation, and/or modified wastewater facilities design. The class will provide a technical basis for compliance and anti-degradation analyses within the framework of the permitting process.</p>

\*For more listings, go to the Academy's web site <http://waternet/training/>

The Training Academy discussed the results of a training needs assessment of Water Board staff with the Assistant Executive Officers at their recent meeting. The discussion focused on the development of core curriculum for stormwater and enforcement staff.

**AB 32 Scoping Plan Implementation – Recycled Water Workshop**

On March 4, 2009, the Water Boards, in conjunction with the Public Utilities Commission and the Water-Energy sub-Team of the Climate Action Team (WET-CAT) sponsored a very successful workshop on key implementation elements of the Recycled Water measure (W-2) described in the Appendices to the AB 32 Scoping Plan (<http://www.arb.ca.gov/cc/scopingplan/document/appendix1.pdf>) beginning on page 131. Water and wastewater agencies, along with federal, State and local representatives and the consulting community participated. Extensive input on approaches to implementing the measure was provided and staff will be working to formulate options for moving the measure forward in the coming weeks.

**DIVISION OF ADMINISTRATIVE SERVICES**

**Furlough:**

The statewide two-day per month staff furlough is now self directed. Based on a two day furlough, we expect to produce salary savings of approximately \$6 million in the current year, of that approximately \$1 million will be General Fund (GF). Next fiscal year we expect to generate approximately \$15 million in savings of which \$3 million is GF. Represented employees with ratified agreements will have a one day furlough resulting in half the savings.

**Budget:**

The Governor signed the budget act for fiscal year 2009-10. The budget does not include General Fund reductions for our programs.

<i><b>FUND SOURCE</b></i>	<i><b>FY 2009-10</b></i>	<i><b>Change from FY 2008-09</b></i>	
		<i><b>Amount</b></i>	<i><b>Percentage</b></i>
General Fund	\$40,575	+ \$292	+ 0.7 percent
Special Funds	\$407,411	+ \$31,187	+ 7.6 percent
Bond Funds	\$14,305	- \$211,901	- 148.1 percent
Federal Funds	\$128,975	+ \$505	+ 0.4 percent
Other Funds	\$8,062	+ \$1,864	+ 2.3 percent
<b>Total: All Funds</b>	\$599,328	- \$178,053	- 29.7 percent
<b>Personnel Years</b>	1,574.3	- 22.2	- 1.4 percent

## DIVISION OF FINANCIAL ASSISTANCE

### Meetings:

#### **2009 California Financing Coordinating Committee (CFCC) Funding Fairs**

The CFCC is comprised of seven member agencies (six state, one federal), who's members conduct statewide Funding Fairs each year to educate interested parties about the CFCC and available financial and technical resources. The CFCC is conducting five Funding Fairs throughout California (Chino - February 3; Bakersfield - February 5; Eureka - March 10; Merced - April 2; and Sacramento - May 7). Information on the 2009 Funding Fairs (including the registration form) is available on the CFCC webpage at: [www.cfcc.ca.org](http://www.cfcc.ca.org).

### **Division Approvals:**

The Deputy Director of the Division approved the following Preliminary Funding Commitments from February 4, 2009 to March 10, 2009.

#### **Clean Water State Revolving Fund Loan**

<b>Entity</b>	<b>Preliminary Loan Commitment</b>	<b>Project</b>	<b>Approved</b>
Upper San Gabriel Municipal Water District	\$27,539,000	Water Recycling Pipeline and Pump Station Project Phase IIB	2/25/09

#### **Cleanup and Abatement Account**

<b>Entity</b>	<b>Preliminary Funding Commitment</b>	<b>Project</b>	<b>Approved</b>
San Diego Regional Water Quality Control Board	\$31,394	Aquatic Science Center	2-11-2009
Lahontan Regional Quality Control Board	\$100,000	Asian Clams Removal Pilot Project	2-19-2009

## **BOARD MEMBER DIRECTIVES**

A list of Board Member directives (assignments made by Board Members) during Board meetings) is attached as **Appendix 3**.

## Appendix 1

# Statewide Policies/Significant General Permits

<b>Division of Water Quality</b>		
<b>Status Code</b>	<b>Policy/Significant General Permit</b>	<b>Status</b>
A	Anti-Degradation Policy / Implementation Triennial Review	Scoping meeting held on 11/17/08. Reviewing the 30+ comment letters received. Preparing recommendation for the Board.
P	Aquifer Storage and Recovery Policy	Pending completion of Recycled Water Policy and Landscape Irrigation Permit.
A	Areas of Special Biological Significance (ASBS): Special Protections	Economic estimates done. Preparing CEQA initial study. Delayed by PRA request. Tentative public hearing in May 2009.
A-09	Bacterial Objectives for Inland Surface Waters	Scoping meetings held 10/6/08 & 10/22/08; comment period closed 11/5/08. Staff preparing draft policy and staff report...
C	Blue-Green Algae Guidance	Revisions completed in September 2008 and posted on website.
A	Bio-indicator Development	Preparing initial planning effort for future development work.
A-09	Cadmium Objective and Implementation Policy	Scoping meeting held 10/6/08; comment period closed 10/23/08. Staff preparing draft policy and staff report
A-09	Chlorine Residual Objectives and Implementation Policy	Delayed by loss of key staff. Scientific Peer review received. Report and policy will be revised as necessary to address peer review comments.
C	Compliance Schedule Policy	Approved by USEPA – completed.
A	Compost (Green Waste) – with Reg 5	Gathering information and working on initial draft.
P	Grazing	No Statewide effort at this time, Regions are issuing watershed based waivers.
A-09	Landscape Irrigation / Incidental Runoff Permit	Final drafting (w/ R1, R4, R5, and R9 staff)
A-09	Listing Policy Update (Sediment Quality Objectives)	Initial drafting
A	Marina Permit	Initial drafting and data gathering.
A	Mercury Offset Policy	Preparing economic analysis (SAIC)
P	Methylmercury Objectives	Delayed by loss of key staff. Preparing economic analysis (SAIC)

A	Nutrient Numeric Endpoints Tools	Freshwater: to be peer reviewed. Estuaries: performing validation studies (SCWRRP and TetraTech)
A	Ocean Plan Amendment: non-substantive	Public hearing will be scheduled for May.
A	Ocean Plan Amendment: monitoring & desal provisions	Pending completion of Ocean Plan Amendment: non-substantive
A	Ocean Plan Amendment: vessel provisions	Pending completion of other Ocean Plan Amendments
A-09	Once-Through Cooling (316b) Policy	Working on CEQA document (TetraTech); waiting for Supreme Court decision on federal 316b regulations.
A-09	Onsite Waste Water Treatment Regulations/Waiver	Comment period closed; reviewing comments and preparing revision based on comments.
A	Rapid Diagnostic Tests for Bacterial Indicators in Coastal Waters	Assessing tests (SCCWRP study)
A-09	Recycled Water Policy	Board adopted policy on 2/3/09. Preparing to submit to OAL for approval.
P	Sanitary Sewer Overflow (SSO) WDR Update	Targeted to begin May, 2009
C	Sediment Quality Objectives (SQOs) for Enclosed Bays and Estuaries: Phase I	Phase I completed, adopted by State Board, approved by OAL on January 5, 2009. Submitted to USEPA for approval.
A	Sediment Quality Objectives (SQOs) for Enclosed Bays and Estuaries: Phase II	Phase II staff draft released.
P	Sediment Quality Objectives (SQOs) for Enclosed Bays and Estuaries: Phase III	Pending completion of Phase II and availability of funding
A-09	Storm Water CalTrans Permit	In progress
A-09	Storm Water Construction Permit	Revising in response to comments; release for comments in April 2009.
P	Storm Water Industrial Permit	Pending completion of construction permit
A-09	Storm Water Linear Permit	To be included in construction permit.
A-09	Storm Water MS4 Effectiveness Guidance (AB 739, Laird)	Working with Storm Water Task Force to develop guidance.
A	Storm Water MS4 Phase II Permit	In progress
P	Suction Dredge General Permit	On hold, and working instead with Dept of Fish and Game to coordinate with their suction dredge permitting program.
A-09	Toxicity Control Provisions for the SIP	Working with U.S. EPA on preparing policy. Evaluating alternative methods for determining compliance. Preparing draft policy alternatives and environmental documents.

C	Vessel General Permit – Certification	Issued 401 certification with state conditions on December 17, 2008. Completed.
C	Vessel General Permit – Revised Certification	Revised 401 Certification in February 2009 to reflect USEPA's final permit and make clarifying edits.
A	Wetlands and Riparian Areas (Dredge and Fill) Policy – Phase I	Stakeholder meetings held December, 2008. Development Team (R1, R2, DWQ) drafting Phase I policy. Planning for Board adoption Winter of 2010.
P	Wetlands and Riparian Areas Policy – Phase II	Pending completion of Phase I.
P	Wetlands and Riparian Areas Policy – Phase III	Pending completion of Phase II.
P	Winery Waste Guidance	Pending response from Wine Institute; staff redirected to Water Recycling Policy

**Status Code Key:**

White = Active effort (A)

Yellow = Targeted for completion in 2009 (A-09)

Blue = Completed (C)

Grey = Suspended or No statewide effort at this time or Pending (P)

<b>Division of Water Rights</b>		
<b>Status Code</b>	<b>Policy/Significant General Permit</b>	<b>Status</b>
A-09	Delta Water Quality Control Plan Review, Update, and Implementation	CEQA Scoping meeting March 30, 2009; workshop for San Joaquin River flow and southern delta salinity on April 22, 2009 with additional meeting dates over next three months; preparing request for qualifications for preparation of CEQA documents
A	North Coast Instream Flow Policy	Sensitivity analysis nearing completion. Reviewing 600+ public comment letters. Preparing responses to comments.

**Status Code Key:**

White = Active effort (A)

Yellow = Targeted for completion in 2009 (A-09)

Blue = Completed (C)

Grey = Suspended or No statewide effort at this time or Pending (P)

<b>Office of Enforcement</b>		
<b>Status Code</b>	<b>Policy/Significant General Permit</b>	<b>Status</b>
C	Policy on Supplemental Environmental Projects	Approved by Board on February 3, 2009 – will be submitted to OAL for approval.
A-09	Enforcement Policy	Staff Workshop occurred on 1/19/09. Staff is reviewing comments and developing proposed modifications in response to some comments

**Status Code Key:**

White = Active effort (A)

Yellow = Targeted for completion in 2009 (A-09)

Blue = Completed (C)

Grey = Suspended or No statewide effort at this time or Pending (P)

<b>Division of Financial Assistance</b>	
<b>Policy/Significant General Permit</b>	<b>Status</b>
Amendment to Policy for Implementing the Clean Water State Revolving Fund For Construction of Wastewater treatment Facilities	Policy amendment is scheduled for consideration at the March 17, 2009 State Water Board Meeting (agenda item 12)
Clean Water State Revolving Fund Regulations	Under development. Process has slowed considerably to accommodate getting the Stimulus fund out to projects. Currently project 2010/2011
Orphan Site Cleanup Fund (OSCF) Proposed Rulemaking Package	Posted on UST Cleanup Fund website; 45 day comment period will end March 31, 2009.
Wastewater Treatment Plant Classification, Operator Certification, and Contract Operator Registration Regulations	Regulations are drafted, but being held waiting fiscal considerations. Anticipate being released for public review in Spring 2010.

**Status Code Key:**

White = Active effort (A)

Yellow = Targeted for completion in 2009 (A-09)

Blue = Completed (C)

Grey = Suspended or No statewide effort at this time or Pending (P)

## Appendix 2

### IRRIGATED LANDS REGULATORY PROGRAM MONTHLY REPORT MARCH 2009

This month's Irrigated Agricultural Lands Regulatory Program (ILRP) report will provide an update on the activities of the Central Coast, Los Angeles, Riverside and San Diego Regional Water Quality Control Board programs. The Colorado River Basin Water Board did not submit an update report for their agricultural program. Future monthly reports will alternate between the status of the ILRP at the Central Valley Water Board for one month, and the status of other Regional Water Boards for the alternate month. English and Spanish translations of current and past ILRP monthly reports can be found on the State Water Boards Irrigated Agricultural Waiver Program website:

[http://www.waterboards.ca.gov/water\\_issues/programs/agriculture/](http://www.waterboards.ca.gov/water_issues/programs/agriculture/)

For additional information on the statewide ILRP, please contact State Water Resources Control Board staff:

Johnny Gonzales	(916) 341-5510	<a href="mailto:jgonzales@waterboards.ca.gov">jgonzales@waterboards.ca.gov</a>
Gita Kapahi	(916) 341-5501	<a href="mailto:gkapahi@waterboards.ca.gov">gkapahi@waterboards.ca.gov</a>

#### **CENTRAL COAST AGRICULTURAL REGULATORY PROGRAM**

Irrigated Agriculture Program Update from a February 5, 2009 staff report.

#### **Irrigated Agricultural Order Renewal**

Staff plans to present a draft Irrigated Agriculture Order (Irrigated Ag Order) to the Central Coast Water Board in July 2009. The draft Order will directly address and resolve (over time) the major water quality issues associated with irrigated agriculture in our Region. Accordingly, the Irrigated Ag Order renewal is a major undertaking that will include revised language and new requirements, including a description of the water quality problems that must be resolved, schedules for achieving compliance, milestones to measure progress, and a tiered monitoring program to verify compliance. We are currently doing outreach to several interest groups. Our approach is based on accountability and achieving tangible results per a defined schedule, and is similar to the approach the Water Board has directed on our other programs, such as Timber Harvesting, Stormwater, Core Regulatory Permitting, and Total Maximum Daily Loads.

The draft Irrigated Ag Order will clarify how growers and property owners will comply with existing requirements, and will include new requirements where necessary to achieve and demonstrate compliance with the following:

- Eliminate waste discharges to surface waters (soil, pesticides, nutrients, etc.) that degrade beneficial uses.
- Eliminate waste discharges to groundwater (nutrients, pesticides, etc.) that degrade beneficial uses.
- Protect aquatic habitat (riparian areas and wetlands) and their buffer zones

## **Summary of Water Quality Issues Associated with Irrigated Agriculture**

The draft Irrigated Ag order will include requirements to address each of the issues below.

### *Pesticide Toxicity*

The Cooperative Monitoring Program (CMP) has found the pesticides chlorpyrifos and diazinon at concentrations that exceed water quality objectives and at concentrations known to cause toxicity, and these data and data from several other researchers indicate that these two chemicals are responsible for much of the widespread surface water toxicity found in watersheds where agriculture is the dominant land use. In addition, the CMP has documented widespread sediment toxicity at many of its sites in our Region. Although the CMP has yet to follow up on this toxicity problem with additional chemical monitoring, related research in the area indicates that pyrethroid and chlorpyrifos pesticides are a significant cause of sediment toxicity. The data show high toxicity in surface waters and sediment, and concurrent impacts on benthic macroinvertebrate communities. The Central Coast Water Quality Control Plan (Basin Plan) specifically prohibits discharges of waste containing substances that cause or contribute to toxicity or which produce detrimental physiological effects in aquatic life.

### *Nutrient/Nitrate*

Groundwater and surface water salt and nitrate pollution is prevalent in many agricultural areas within our region. In addition, constituents such as orthophosphate consistently exceed recommended levels in some areas. The Basin Plan prohibits discharges that could result in groundwater or surface water nitrate concentrations above 45 milligrams per liter (mg/L) as nitrate, or 10 mg/L as nitrogen. Thirty out of the 50 CMP surface water sites throughout the Region consistently exceed water quality standards for nitrate. These data understate the severity of the problem because the nitrate limits necessary to protect aquatic life in surface water are more than an order of magnitude less than the drinking water standard (based on U.S. EPA Ambient Water Quality Criteria Recommendations, 2000, which are not yet adopted in California).

Nutrient discharges cause chronic water quality degradation, and also contribute to algal blooms in both fresh and saltwater environments. These nutrient induced algal blooms are a major impact to aquatic life over large geographic areas, and are becoming more intense and more prevalent in some areas. The groundwater nitrate problem in our Region is widespread and severe. The physical size of the groundwater nitrate problem in our Region is large and municipalities and water districts are faced with the cost of removing nitrate from groundwater or finding alternative water supplies. Groundwater contamination on this scale requires a solution on the same scale. Irrigated agriculture is the solution because it is a potential large-scale "pump and treat" system. To deal with this groundwater problem, growers must implement management practices that reduce the concentration of nitrate in groundwater. This means using the nitrogen already in groundwater to reduce the amount of fertilizer applied, so that the groundwater contaminant trend is reversed over time.

### *Sediment*

Sediment eroding off bare ditch banks and farm fields contributes directly to water quality impairment, through the sediment itself and by carrying attached pesticides and other chemicals. Minimizing sediment movement from farm fields and ditches is a critical requirement for protecting water quality.

### *Habitat Degradation*

Land use management activities have significantly degraded aquatic habitat (riparian areas and wetlands) throughout the Central Coast and California. For example, over 90 percent of

wetlands have been lost in California over the past 100 years. Healthy riparian habitat and wetlands, including buffer zones, are critical to protect the beneficial uses of our waters and to maintain the biological and physical integrity of our watersheds. They help to reduce flood impacts by helping to attenuate peak flood flows, recharge groundwater, stabilize stream banks, provide critical habitat for a wide diversity of wildlife, and filter nutrients and pathogens, among many other benefits. The Basin Plan requires the protection of riparian habitat and the maintenance of adequate buffer zones. The food safety issue has resulted in some growers removing riparian habitat and buffer zones on and around irrigated agricultural fields, which is a direct violation of the Basin Plan.

### **The Draft irrigated Ag Order**

The draft Irrigated Ag Order will address each of the water quality and aquatic habitat issues above, as required by law, the Basin Plan, and the State and Regional Boards' 2004 Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program. This Policy requires that the Irrigated Ag Order include several key elements, as follows:

- Achieve and maintain water quality objectives and beneficial uses, and comply with antidegradation requirements
- Define management practices necessary to meet requirements, the process to select the management practices, and the process to verify proper implementation
- Where time is needed to comply, define specific schedules and corresponding quantifiable milestones to measure progress toward reaching the requirements.
- Include feedback mechanisms (e.g., reporting, inspection, monitoring, etc.) so that the Regional Board, dischargers, and the public can determine whether the program is achieving its stated purpose(s), or whether additional or different management practices or other actions are required.
- Define enforcement consequences for non-compliance

The 2004 Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program can be reviewed at: [http://www.waterboards.ca.gov/water\\_issues/programs/nps/docs/oalfinalcopy052604.doc](http://www.waterboards.ca.gov/water_issues/programs/nps/docs/oalfinalcopy052604.doc)

### **Public Outreach**

As during the development of the existing Irrigated Ag Order, staff has convened an advisory panel to draft recommendations to the staff and the Water Board. The Agricultural Advisory Panel includes representatives from agricultural organizations and environmental groups from across the region.

In addition, staff is sending letters to other interested parties and organizations, such as municipalities, water districts, other agencies, environmental groups, and environmental justice organizations. While we have data indicating significant problems with urban runoff in many areas, stakeholder comments remind us of other perspectives in the watersheds. While we are requiring our municipalities to cleanup their runoff, some municipalities receive surface water discharges from agricultural areas, and both municipalities and water districts have to deal directly with the groundwater pollution problem, and the associated liability and costs. Several of our watersheds are significantly affected by discharges from both agriculture and urban runoff, and the most effective methods to solve these problems will include some cooperation. For example, with the City of Salinas stormwater monitoring program, we designated monitoring points in cooperation with the ag monitoring program so that these two programs complement one another.

We also need to address environmental justice issues. Small communities and rural homes that use groundwater wells contaminated with nitrate are not typically represented or heard, and their health threats and impacts are typically not addressed. Wells with very few connections (as well as some wells that have bootlegged connections to more residences) are not regulated or protected by any agency. Also, people who catch and consume fish from places like Oso Flaco Lake and the lower Salinas watershed areas are exposed to health risks due to the accumulation of agricultural pollutants in those areas and their migration up the food chain. We are seeking out environmental justice organizations in our Region to inform them of the Irrigated Ag Order renewal process and how they can participate. We are also providing the same information to county environmental health directors and the Department of Public Health. We are explaining the Irrigated Ag Order renewal process and how they can participate.

### **Costs**

The Water Board is required to consider a number of factors, including economics. Our evaluation may include the following types of costs:

1. Costs to growers for meeting the Water Board's requirements.
2. Costs to municipalities and water districts to deal with groundwater pollution and treatment.
3. Costs to municipalities to deal with surface water pollution.
4. Costs to society for providing irrigated agricultural grant funds.
5. Costs to society for lost or degraded natural resources, such as riparian habitat, wetlands, groundwater as a drinking water source, etc.

### **Conclusion**

The water quality and aquatic habitat issues associated with irrigated agriculture are some of the most significant problems we face in the Central Coast Region. The Irrigated Ag Order is the primary mechanism for the Water Board to address and resolve these issues. Staff will periodically update the Water Board on our progress for bringing a draft Irrigated Ag order to the Board in July 2009.

## **LOS ANGELES REGION CONDITIONAL WAIVER FOR IRRIGATED LANDS UPDATE TO THE SWRCB March 5, 2009**

Discharger groups in Ventura and Los Angeles Counties, enrolled in the Los Angeles Region Conditional Waiver for Irrigated Lands, submitted Water Quality Management Plans (WQMPs) to the Regional Board for review and approval. The WQMPs describe the strategy that will be used by discharger groups to address exceedances of water quality benchmarks in the Conditional Waiver. Regional Board staff met with discharger groups and provided comments, and both discharger groups submitted revised WQMPs. Staff has approved the Ventura County Agriculture Irrigated Lands Group (VCAILG) WQMP and is currently working with the Nursery Growers Association –

Los Angeles County Irrigated Lands Group to finalize their WQMP. The agriculture WQMPs identify specific BMPs to address exceedances and provide a time line for BMP implementation. BMPs will be prioritized in drainage areas with multiply water quality benchmark exceedances and TMDLs. For example, under the approved VCAILG WQMP, BMPs will be installed in priority areas beginning in 2009 and 2010. BMP effectiveness will begin to be demonstrated in the 3rd and 4th annual monitoring reports (for years 2009 and 2010).

Additionally, the Los Angeles Regional Board hosted the Irrigated Agricultural Lands Regulatory Program Roundtable on January 8-9, 2009. This roundtable event was a joint meeting between the State Water Resources Control Board, Regional Water Quality Control Boards, Department of Pesticide Regulation, California Department of Food and Agriculture, and U.S. EPA Region 9. The meeting included field tours by local agriculturalists; attendees toured Bordier's Nursery located in Somis and Limoneira Company located in Santa Paula. Additionally, leaders of the Ventura County agriculture community provided presentations focused on local agriculture issues and water quality. The Executive Director of the Ventura County Farm Bureau, John Krist, discussed the efforts of the agriculture community to comply with the Los Angeles Region Conditional Waiver for Irrigated Lands (Order No. R4-2005-0080) and TMDLs. Dan Detmer of the United Water Conservation District presented research on the effectiveness of Best Management Practices (BMPs) to protect water quality. This roundtable meeting provided an interagency forum to discuss agriculture issues in the Los Angeles Region and generated positive feedback from both attendees and the stakeholder community.

Los Angeles Regional Board staff has also continued outreach efforts to enroll growers under the waiver. Staff followed up with hundreds of phone calls to growers in Los Angeles County who were sent NOVs for failing to enroll in the waiver. As a result, enrollment in the Los Angeles discharger group has increased and staff was able update their database based on corrected land use information provided by property owners. Regional Board staff continues to participate in meetings and workshops to update the agriculture community on the progress and requirements of the Conditional Waiver program.

For additional information on the Los Angeles Region Conditional Waiver for Irrigated Lands, please contact Rebecca Veiga Nascimento at (213) 576-6784 [rveiga@waterboards.ca.gov](mailto:rveiga@waterboards.ca.gov) or Jenny Newman at (213) 576-6691 [jnewman@waterboards.ca.gov](mailto:jnewman@waterboards.ca.gov)

## **COLORADO RIVER BASIN CONDITIONAL PROHIBITION FOR AGRICULTURAL DISCHARGES**

No information submitted.

## **SANTA ANA REGION CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR AGRICULTURAL DISCHARGES (CWAD PROGRAM)**

**Update to the SWRCB  
March 10, 2009**

Board staff is proposing that all operators of irrigated or dry-farmed land, and of other agricultural operations not already regulated by the Regional Board, enroll in a conditional waiver of waste discharge requirements. Board staff is calling this the Conditional Waiver (of waste discharge requirements) for Agricultural Discharges (CWAD). The Regional Board staff proposes that the CWAD program will be developed and implemented on a watershed-based, phased approach. The first phase of this program is being developed for waste discharges from agricultural operations in the Lake Elsinore / San Jacinto Watershed. The Regional Board adopted separate nutrient Total Maximum Daily Loads (TMDLs) for Canyon Lake and Lake Elsinore which are the CWAD program is being designed to be part of implementation program for these TMDLs.

In order to formulate a strategy to develop a CWAD program, the Regional Board staff has been conducting meetings with key stakeholders, including the Western Riverside County Agricultural Coalition (WRCAC), a NGO, and the Lake Elsinore San Jacinto Watershed Authority (LESJWA), a joint-powers authority that includes the Cities of Canyon Lake and Lake Elsinore, Riverside County

Flood Control and Water Conservation District, the County of Riverside, and the Santa Ana Watershed Project Authority.

During the last few months, the Regional Board staff have also met with other potential stakeholders and related agencies, including the Riverside County Farm Bureau and Riverside County Agricultural Commissioner's office. Board staff is coordinating with representatives of WRCAC and LESJWA and the Southern California Coastal Water Research Project (SCCWRP) establish a CWAD monitoring for the San Jacinto River watershed. This coordination will take a step forward when these representatives present and discuss their concepts for a watershed monitoring program at WRCAC's March 23, 2009.

Over the next several months, Regional Board staff will continue meeting with key stakeholders, and conducting semi-formal public workshops to get ideas about how best to put the CWAD program in place. Possible topics for workshop discussions will include:

- Are all farming operations going to be covered, or are there exemptions from the program?
- Is there a minimum acreage for the program?
- Have "third party representatives" been formed? Will there be a cost to be represented?
- How is the Regional Board identifying operators who will be required to enroll in the CWAD program?
- What's the schedule for putting the CWAD program in place?

Workshops will be publicized on the Regional Board's website and through stakeholders communications throughout the watershed.

***For more information, please contact:***

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**SAN DIEGO WATER BOARD IRRIGATED LANDS REGULATORY PROGRAM  
(CONDITIONAL AG WAIVER)  
MARCH 2009**

San Diego County Farm Bureau (SDCFB) adopted a workplan to form a region-wide monitoring group. The Executive Director of the SDCFB, reported that the SDCFB's Board of Directors recently adopted a detailed workplan for putting in place a region-wide agricultural monitoring group in time to submit a Notice of Intent (NOI) to the San Diego Water Board by the deadline of December 31, 2010. Submittal of an NOI, either as part of a monitoring group or as an individual grower, is required of growers by a condition of the new waiver for irrigated agricultural discharges. All growers who elect to join the monitoring group would be covered by the SDCFB's NOI. The SDCFB has also communicated with the Riverside and Orange County Farm Bureaus to inform them that there will be growers in those counties who may wish to be

included in the SDCFB NOI. Mr. Larson stated that, to date, the Riverside and Orange County Farm Bureaus are supporting the SDCFB's work on this issue. In brief, the year by year workplan tasks are:

#### 2008

- Study existing monitoring group structures in California
- Choose best case models.
- Select legal and professional consultants for recommendations on group structure.
- Submit organizational alternatives to SDCFB board for consideration
- Select organizational structure.

#### 2009

- Create monitoring group as a legal entity and organize.
- Begin first phase of education for grower community.
- Solicit RFP's from firms qualified to do monitoring and reporting.
- Select firm.
- Set fee structure for participants.
- Develop recruitment material.

#### 2010

- Recruit monitoring group participants.
- Submit NOI to San Diego Water Board.

In addition to the workplan for the monitoring group NOI, Regional Board staff has been conducting public outreach and stakeholder meetings. Also, the SDCFB has talked to the University of California Cooperative Extension Service about how SDCFB can help growers meet the waiver's educational land record keeping requirements this year. Although San Diego Water Board staff has not reviewed the workplan, we appreciate and commend the SDCFB for its proactive work on timely compliance with the conditions of the new waiver for irrigated agricultural discharges.

**APPENDIX 3**

Board Meeting	Staff	Requested by Board member	Issue	Due Date	Direction	Current Status
9/16/2003	Rik Rasmussen	W/QO 2003-12	Toxicity Revisions to the SIP	Release draft revisions - January 2009. Adoption - Spring 2009.	Modiy the SIP to include policy direction on the use of the numeric chronic toxicity effluent limits in NPDES permits for POTWs that discharge to inland waters.	Staff is currently working to revise the toxicity control provisions in the SIP. Proposal changes include 1) clarifying the appropriateness of numeric toxicity effluent limits in NPDES permits and 2) expanding and standardizing implementation requirements for toxicity control. Staff is working with USEPA on developing options for determining highly defensible statistical methods for the analysis of toxicity testing data. Staff are working with USEPA to verify possible statistical methods for determining compliance with permit toxicity limits. Results of this project will lead to defensible options for toxicity control. USEPA has funded a contract with SAIC for an economic analysis of the proposed changes.
11/15/2006 (during Klamath River TMDL proceedings)	Steven Herrera, Karen Niiya, Eric Oppenheimer	All	Inclusion of the Klamath River watershed in the policy being developed pursuant to AB 2121	late 2009	Upon adoption of the policy for the five counties described in Water Code section 1259.4, the Board should consider the expansion or amendment of AB 2121 policy to include the Klamath River and its tributaries.	The Division of Water Rights has developed a draft policy for protection of instream flows in five coastal counties described in Water Code section 1259.4 as added by AB 2121. Upon adoption of this policy, the Board may consider amending the policy or developing a policy specific for the Klamath River and its tributaries. The policy for the Klamath River and its tributaries should include all limitations and mitigations developed as part of any 303(d) listing and TMDL requirements. The Division recomends that the Board wait until it has adopted the policy for the five coastal counties before expanding instreamflow protections policies elsewhere in California.
2/19/2008	Shakoora Azimi-Gaylon	Resolution No. 2008-0014	Plan for Enclosed Bays/ Estuaries- Part 1 Sediment Quality	Feb-09	Directs staff to initiate appropriate proceedings to amend the section 303(d) listing policy by February 2009.	In progress. Expected Board consideration February, 2009
4/15/2008	Wetland Policy Development Team	All	Regional Policy Progress Updates	Summer 09	State Board has directed in the Board Wetland Policy resolution (April 15, 2008) that the Wetland Policy Development Team report back to the Board following the peer review of Region 1 & 2's Stream and Wetlands System Protection Policy and also within the public comment period prior to Regional Board adoption.	The peer review process has been delayed.
6/1/2008	Executive	Frances Spivy-Weber	Aerial Deposition		Executive staff and Board lead will coordinate with ARB to evaluate joint solutions to aerial deposition that impacts water quality.	

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Board Meeting	Staff	Requested by Board member	Issue	Due Date	Direction	Current Status
9/2/2008	Jon Bishop	All	Recycled Water Policy	Nov-08	Bring suggested staff changes to stakeholder draft recycled water policy back to the Board.	Scheduled for adoption in February 2009.
9/16/2008	Barbara Evoy	All	SRF Loans	Mar-09	Bring to the Board for consideration options on how to address 218 vote. One option must include no new SRF loans until the issue is resolved.	In progress.
10/7/2008	Miles Burnett	Gary Wolff	Development of Environmental User Fees	May-09	Such a fee was adopted for NPDES permittees. Similar fees should be developed for other permit types.	Alternative fee strategies are being developed.
11/4/2008	DWQ	Frances Spivy-Weber	Beaches	Jul-09	Include the use of rapid indicators in discussions on long term funding for beach monitoring.	
11/18/2008	DFA	All	SRF Loans	Jul-09	Work with CASA and Tri-TAC to develop alternatives to explore safety fund for the SRF to protect against rate rollbacks.	In progress.
1/6/2009	Liz Haven	All	Suction Dredge	Jul-09	Work with DFG to define scope of work for suction dredge EIR. Brief Board members on process and contents.	Update on status in February and April Executive Director's Report.
2/17/2009	DWQ	All	Blue Green Algae	Apr-09	Report back to the Board on Blue Green Algae work being conducted on the Klamath.	
2/17/2009	DWQ	All	LID	Jul-09	Staff will follow up with the Coastal Commission and DWR IRWM on outreach for LID education for the Municipalities and report back in a future ED report.	
2/17/2009	Darrin Polhemus	Charles Hoppin	Monitoring	Jan-10	Report back from time to time in the ED report on work with the shipping industry regarding monitoring requirements.	